

# DEPARTMENT OF MENTAL HEALTH

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## ***State and Federal Regulations Have Hampered Its Implementation of Legislation Meant to Strengthen the Status of Psychologists at Its Hospitals***

REPORT NUMBER 2003-114, JULY 2004

Department of Mental Health response as of September 2004

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### ***Audit Highlights . . .***

*Our review of the Department of Mental Health's (department) implementation of Chapter 717, Statutes of 1998 (Chapter 717), commonly known as Assembly Bill 947, revealed that:*

- Even though the department has acted to implement Chapter 717 at its four hospitals, a key issue—whether psychologists have the authority to serve as attending clinicians in patient care and treatment—remains unresolved.*
- State regulations specifically allow only physicians to order the restraint and seclusion of patients, an action that psychologists contend is within their scope of license.*
- No significant change occurred either to psychologists' membership on certain key committees or in the privileges available to them after Chapter 717 was enacted.*

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The Joint Legislative Audit Committee requested the Bureau of State Audits to evaluate the Department of Mental Health's (department) status in implementing Assembly Bill 947, which was enacted as Chapter 717, Statutes of 1998 (Chapter 717). Specifically, our review found that even though the department has acted to implement Chapter 717 at its four hospitals, a key issue—whether psychologists have the authority to serve as attending clinicians in patient care and treatment—remains unresolved. In addition, state regulations specifically allow only physicians to order the restraint and seclusion of patients, an action that psychologists contend is within their scope of license. Further, no significant changes occurred either to the psychologists' membership on key committees or in the clinical privileges available to them at the department's hospitals after the enactment of Chapter 717. Finally, although California is considered one of the more progressive states with regard to the status of psychologists in state hospitals, some other states' statutes allow more privileges for their psychologists. However, psychologists in these other states are not always performing these activities in practice.

**Finding #1: Although the department has attempted to implement Chapter 717, it has not resolved the key issue of whether psychologists have the authority to serve as attending clinicians in patient care and treatment.**

The department and its hospitals have taken steps to implement the requirements of Chapter 717 by ensuring that medical staff bylaws (bylaws) at each hospital allow psychologists to be part of the medical staff. Although psychologists are now included on the medical staff at the department's hospitals, they are not allowed to serve as attending clinicians. The department, using

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reports it requested from a psychology subcommittee and its hospital chiefs of staff, issued a special order in January 2003 enumerating 27 activities that psychologists could perform under their scope of license. However, these activities did not include the authority to act as an attending clinician or order the restraint or seclusion of patients. As a result, staff psychologists still contend that the department has not fully implemented Chapter 717. The department's view is that it has implemented the intent of Chapter 717 and has addressed the psychologists' contentions to the extent possible within the framework that governs patient care in its hospitals. Nevertheless, in 2003 the department requested medical staff leadership at its hospitals to develop pilot projects for psychologists to serve as attending clinicians. According to the department, because of differing ideologies the pilot projects were never fully developed. The department is currently attempting to promote solutions to satisfy its psychologists and psychiatrists, legal requirements, and standards of care for its patients.

We recommended that the department work to resolve the continuing issue regarding whether psychologists can serve as attending clinicians in its four hospitals. The department's effort should include providing leadership and guidance to the administrators, psychiatrists, and psychologists at each hospital to find reasonable solutions to satisfy the statutory and regulatory requirements that govern patient care in its hospitals.

***Department Action: Pending.***

The department drafted a directive to use either attending or co-attending clinician pilot projects for psychologists in its hospitals. It believes these pilot projects will serve as a foundation to move toward resolving the attending clinician issue. In addition, the department began discussions with the Department of Health Services to revise state regulations to reduce barriers to fully implement Chapter 717. The department believes that reducing regulatory barriers will enhance its efforts to allow psychologists to participate in the care of patients as either attending or co-attending clinicians.

**Finding #2: Psychologists at the department’s four hospitals are generally underrepresented on key committees in proportion to their presence on the medical staff.**

Our review of the composition of three key committees—medical executive, credentials, and bylaws—demonstrated that, with few exceptions, the psychiatrists on these committees outnumber the psychologists. In addition, the passage of Chapter 717 in 1998 has had little effect in changing the composition of one of the committees, while psychologist representation was either mixed or improved on the other two. Moreover, we found that, even after the passage of Chapter 717, psychologists are generally underrepresented on key committees in proportion to their presence on the medical staff. For example, while psychologists make up 36 percent of the medical staff at one of the department’s hospitals, they hold only 10 percent of the positions on the medical executive committee.

We recommended that to ensure the appropriate level of representation for psychologists on key committees, the department direct its hospitals to annually review the composition of their medical staffs and the proportion of psychologists, psychiatrists, and other medical staff on their medical executive, credentials, and, if applicable, bylaws committees. Each hospital should modify, to the extent possible, the membership of these committees to more closely reflect the composition of its medical staff.

***Department Action: Partial corrective action taken.***

The department issued in September 2004 a special order that directed its hospitals to conduct reviews and modify, to the extent possible, the membership of their medical executive, credentials, and, if applicable, bylaws committees to more closely reflect the composition of their medical staffs. The department required its hospitals to complete their first reviews by October 31, 2004, and annually thereafter. The hospitals will complete changes in committee composition within their normal voting or appointment process for committee members.

